

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

Crim. Action No.: 2:21-CR-35-1  
(Judge KleeH)

CALVIN CROCKETT MULLINS,

Defendant.

ORDER ADOPTING MAGISTRATE JUDGE'S AMENDED REPORT AND  
RECOMMENDATION CONCERNING PLEA OF GUILTY IN FELONY CASE [ECF NO.  
106], ACCEPTING GUILTY PLEA, AND SCHEDULING SENTENCING HEARING

---

On December 21, 2021, the Defendant, Calvin Crockett Mullins ("Mullins"), appeared before United States Magistrate Judge Michael J. Aloï and moved for permission to enter a plea of **GUILTY** to Count Three of the Indictment, charging him with Unlawful Distribution of a Firearm, in violation of 18 U.S.C. §§ 922(d)(1) and 924(a)(2). Mullins stated that he understood that the magistrate judge is not a United States District Judge, and Mullins consented to pleading before the magistrate judge. This Court referred Mullins's plea of guilty to the magistrate judge for the purpose of administering the allocution, pursuant to Federal Rule of Criminal Procedure 11, making a finding as to whether the plea was knowingly and voluntarily entered, and recommending to this Court whether the plea should be accepted.

USA v. MULLINS

2:21-CR-35-1

**ORDER ADOPTING MAGISTRATE JUDGE'S AMENDED REPORT AND  
RECOMMENDATION CONCERNING PLEA OF GUILTY IN FELONY CASE [ECF NO.  
106], ACCEPTING GUILTY PLEA, AND SCHEDULING SENTENCING HEARING**

---

Based upon Mullins's statements during the plea hearing, and the Government's proffer establishing that an independent factual basis for the plea existed, the magistrate judge found that Mullins was competent to enter a plea, that the plea was freely and voluntarily given, that Mullins was aware of the nature of the charges against him and the consequences of his plea, and that a factual basis existed for the tendered plea. The magistrate judge issued an *Amended Report and Recommendation Concerning Plea of Guilty in Felony Case* (the "Amended R&R") [ECF No. 106], finding a factual basis for the plea and recommending that this Court accept Mullins's plea of guilty to Count Three of the Indictment.<sup>1</sup>

The magistrate judge **remanded** Defendant to the custody of the United States Marshals Service.

The magistrate judge also directed the parties to file any written objections to the Amended R&R within fourteen (14) days after service of the Amended R&R. He further advised that failure to file objections would result in a waiver of the right to appeal from a judgment of this Court based on the Amended R&R.

---

<sup>1</sup> The magistrate judge issued an R&R on December 21, 2021, regarding Mullins's guilty plea, but Mullins filed an objection, which the magistrate judge address and incorporated into the Amended R&R.

USA v. MULLINS

2:21-CR-35-1

**ORDER ADOPTING MAGISTRATE JUDGE'S AMENDED REPORT AND  
RECOMMENDATION CONCERNING PLEA OF GUILTY IN FELONY CASE [ECF NO.  
106], ACCEPTING GUILTY PLEA, AND SCHEDULING SENTENCING HEARING**

---

Accordingly, this Court **ADOPTS** the magistrate judge's Amended R&R [ECF No. 106], **DIRECTS** the clerk to terminate the R&R at ECF No. 101 in light of the Amended R&R, provisionally **ACCEPTS** Mullins's guilty plea, and **ADJUDGES** him **GUILTY** of the crime charged in Count Three of the Indictment.

Pursuant to Fed. R. Crim. P. 11(c)(3) and U.S.S.G. § 6B1.1(c), the Court **DEFERS** acceptance of the proposed plea agreement until it has received and reviewed the presentence investigation report prepared in this matter.

Pursuant to U.S.S.G. § 6A1 et seq., the Court **ORDERS** the following:

1. The Probation Officer shall undertake a presentence investigation of Mullins, and prepare a presentence investigation report for the Court;

2. The Government and Mullins shall each provide their narrative descriptions of the offense to the Probation Officer by **January 28, 2022;**

3. The presentence investigation report shall be disclosed to Mullins, his counsel, and the Government on or before **March 14, 2022;** however, the Probation Officer shall not disclose any

USA v. MULLINS

2:21-CR-35-1

**ORDER ADOPTING MAGISTRATE JUDGE'S AMENDED REPORT AND  
RECOMMENDATION CONCERNING PLEA OF GUILTY IN FELONY CASE [ECF NO.  
106], ACCEPTING GUILTY PLEA, AND SCHEDULING SENTENCING HEARING**

---

sentencing recommendations made pursuant to Fed. R. Crim. P. 32(e)(3);

4. Counsel may file written objections to the presentence investigation report on or before **March 18, 2022**;

5. The Office of Probation shall submit the presentence investigation report with addendum to the Court on or before **April 1, 2022**; and

6. Counsel may file any written sentencing memorandum or statements and motions for departure from the Sentencing Guidelines, including the factual basis for the same, on or before **April 15, 2022**.

The Court further **ORDERS** that prior to sentencing, counsel for Defendant shall review with him the revised Standard Probation and Supervised Release Conditions adopted by this Court on November 29, 2016, pursuant to the standing order entered by Chief Judge Groh, In Re: Revised Standard Probation and Supervised Release Conditions, 3:16-MC-56.

The Court will conduct the **Sentencing Hearing** for Mullins on **May 2, 2022**, at **2:30 p.m.**, at the **Elkins, West Virginia**, point of holding court. If counsel anticipates having multiple witnesses or an otherwise lengthy sentencing hearing, please notify the

USA v. MULLINS

2:21-CR-35-1

**ORDER ADOPTING MAGISTRATE JUDGE'S AMENDED REPORT AND  
RECOMMENDATION CONCERNING PLEA OF GUILTY IN FELONY CASE [ECF NO.  
106], ACCEPTING GUILTY PLEA, AND SCHEDULING SENTENCING HEARING**

---

Judge's chamber staff so that an adequate amount of time can be scheduled.

It is so **ORDERED**.

The Clerk is directed to transmit copies of this Order to counsel of record and all appropriate agencies.

DATED: January 21, 2022

/s/ Thomas S. Kleeh  
THOMAS S. KLEEH  
UNITED STATES DISTRICT JUDGE